


#20B/18C
12-11-02PATENT
600-1-162IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S) : Jeffrey M. Friedman et al. EXAMINER : E.B. O Hara
SERIAL NO. : 08/586,594 ART UNIT : 1646
FILED : January 16, 1996
FOR : DB, THE RECEPTOR FOR LEPTIN, NUCLEIC ACIDS
ENCODING THE RECEPTOR, AND USES THEREOF

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

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(Name of Registered Representative)

 11/18/2002
(Signature and Date)

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RESPONSE TO REQUIREMENT FOR RESTRICTION
UNDER 35 U.S.C. §121

ASSISTANT COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 20231

Dear Sir:

Responsive to the Office Action dated May 16, 2002, issued in connection with the above-identified Application, which is now due for response on November 18, 2002, November 16, 2002 falling on a weekend, with a Five-Month Extension of Time, please consider the following remarks.

REMARKS

By this Office Action, the Examiner has required restriction to one of the following inventions under 35 U.S.C. §121 and 372.

Group I. Claims 3-9, 63, 66 and 68, insofar as they are drawn to murine splice variant OB-Ra polypeptide, classified in class 530, subclass 350.

Group II. Claims 3-9, 63, 66 and 68, in so far as they are drawn to murine splice variant OB-Rb polypeptide, classified in class 530, subclass 350.

- Group III. Claims 3-9, 63, 66 and 68, in so far as they are drawn to murine splice variant OB-Rc polypeptide, classified in class 530, subclass 350.
- Group IV. Claims 3-9, 63, 66 and 68, in so far as they are drawn to murine splice variant OB-Rd polypeptide, classified in class 530, subclass 350.
- Group V. Claims 3-9, 63, 66 and 68, in so far as they are drawn to murine splice variant OB-Re polypeptide, classified in class 530, subclass 350.
- Group VI. Claims 8, 63, 66 and 68, in so far as they are drawn to murine full-length OB-R polypeptide, classified in class 530, subclass 350.
- Group VII. Claims 8, 14, 63, 66 and 67, in so far as they are drawn to human full-length OB-R polypeptide, classified in class 530, subclass 350.

In accordance with 35 U.S.C. §121, Applicants hereby elect to prosecute the claims of Group V, drawn to to murine splice variant OB-Re polypeptide, classified in class 530, subclass 350, with traversal.

Also, the Examiner has imposed on Applicants an Election of Species from among the hybrid polypeptide splice variants set forth in the claims, and Applicants elect without prejudice the hybrid polypeptides corresponding to splice variant OB-Re. With respect to the election of species, Applicants understand and therefore request that upon the indication of allowability of the generic claim, all species should be rejoined and included in allowance.

Under 35 U.S.C. §121 "two or more independent and distinct inventions ... in one application may ... be restricted to one of the inventions." Inventions are "independent" if "there is no disclosed relationship between the two or more subjects disclosed" (MPEP 802.01). The term "distinct" means that "two or more subjects as disclosed are related ... but are capable of separate manufacture, use or sale as claimed, and are patentable over each other" (MPEP 802.01). However, even with patentably distinct inventions, restriction is not required unless one of the following reasons appear (MPEP 808.02):

1. Separate classification
2. Separate status in the art; or
3. Different field of search.

Under Patent Office examining procedures, "If the search and examination of an entire application can be made without serious burden, the Examiner is encouraged to examine it on the merits, even though it includes claims to distinct or independent inventions"

(MPEP 803, Rev. 8, May 1988).

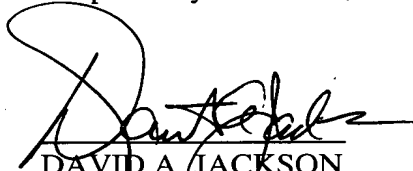
Specifically, Applicants believe that, particularly as the claims of the respective groups are the same, a search could be economically conducted for each of the interpretations of the claims without undue hardship. This is particularly true in the case of claim Groups I-VI, as both the same claims and the same area of classification are specified. Withdrawal of the requirement for restriction is therefore believed to be in order and is requested.

Accordingly, such reconsideration and withdrawal of the Requirement for Restriction is requested and early action on the merits as to all of the claims presently pending in the case.

The Examiner has also called for a substitute Sequence Listing and corresponding CRF in accordance with 37 C.F.R. 1.821-1.825, and the same are submitted herewith, together with a direction that the paper copy provided herewith be inserted after the Abstract on Page 143, in accordance with current practice. Favorable consideration of this submission and amendment are also requested.

In view of the above, early action on the merits is courteously solicited.

Respectfully submitted,



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ENCLOSURES